

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

ROBERT J. ARTIS,

Plaintiff,

v.

MICHAEL MEISNER, *et al.*,

Defendants.

ORDER

12-cv-589-wmc

State inmate Robert Artis is proceeding *pro se* in this case on his Eighth Amendment and state law malpractice and negligence claims against defendants. Currently pending before the court is defendant Joe Reda's motion for partial summary judgment, which was filed on March 13, 2015 -- the court-established deadline for the parties to file dispositive motions. Defendants have since filed a Motion for Leave to File an Additional Summary Judgment Motion. (Dkt. #53.)

Defendants point out that some of Artis's testimony from his June 16, 2015, deposition contradict statements he made in his complaint and sworn statements about the denial of medical care. Defendants argue that because these new undisputed facts may make summary judgment as to additional defendants appropriate, the court should permit them the opportunity to brief the issue. Defendants specifically cite to Artis's testimony about the pain he experienced on the night in question. Namely, they point to Artis's use of the word "convulsing" in his filings, in contrast to his deposition testimony that he was "shaking" from pain. Defendants also direct the court to Artis's statements in his filings that he was "throwing up blood," a claim defendants maintain contradicts his deposition testimony that

his dry heaving and vomiting was accompanied by a “little blood.” Defendants further point out that defendant Sergeant Tetzlaff did not see Artis shaking, but only told him that his stomach hurt, claiming that this undisputed fact is sufficient to find in defendants favor as a matter of law.

Without embarking on a full-blown analysis of whether summary judgment would be appropriate, the court agrees that Artis’s deposition testimony sheds new light on the events at issue and warrants briefing before any trial. While defendants have not explained why they waited until well after the dispositive motion deadline to request leave to take plaintiff’s deposition, the court is sympathetic to the Department of Justice’s explanation that it has been short-staffed in dealing with a very heavy caseload. Accordingly, the court will grant defendants’ motion. Defendants shall have until August 19, 2015 to file an additional motion for summary judgment, plaintiff’s opposition will be due September 2, 2015, and any reply will be due September 9, 2015. As this case is currently set for trial on September 28, 2015, the trial date and all pretrial deadlines will be stricken and reset following resolution of all summary judgment motions.

ORDER

IT IS ORDERED that defendants’ Motion for Leave to File an Additional Summary Judgment Motion (Dkt. # 53) is GRANTED consistent with the schedule above. The trial date and pretrial deadlines are hereby STRICKEN.

Entered this 10th day August, 2015.

BY THE COURT:

/s/

WILLIAM M. CONLEY

District Judge